

EDMUND G. BROWN JR.
GOVERNORMATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

San Francisco Bay Regional Water Quality Control Board

March 5, 2014

File Nos.: 43S0064 and 43S0110 (RWP)

General Electric
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Siemens Corporation (SMI Holding LLC)
ATTN: Mr. Gary A. Jones
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SUBJECT: Approval of *Off-Site Study Area Monitoring Well Installation Workplan* and *Addendum to Off-Site Study Area Monitoring Well Installation Workplan* for 10900 and 10950 North Tantau Avenue, Cupertino, Santa Clara County

Dear Mr. Hauer and Mr. Jones:

This letter responds to your January 21, 2014, *Off-Site Study Area Monitoring Well Installation Workplan* (Workplan) and February 28, 2014, *Off-Site Study Area Monitoring Well Installation Workplan Addendum*. As explained below, I approve the Workplan and Addendum and require you to submit a report documenting implementation of the Workplan and Addendum by **July 31, 2014**.

Background

The Regional Water Board regulates the site under Order 90-119. The September 30, 2010, *Five Year Review* (5YR) recommended defining off-property groundwater plumes in the A1, A2, A3 and A4 Zones to the cleanup goal set at Maximum Contaminant Levels. Following up on the 5YR recommendations, you voluntarily submitted the Workplan.

Workplan and Addendum Summary

The background section of the Workplan notes that elevated chlorinated compound levels were indicated by electron capture detector (ECD) readings from the A1, A3, and A4 depth intervals (Zones) but not in the A2 Zone. Based on the ECD data, the Workplan proposes installing ten wells in the A1, A3 and A4 Zones within the off-property Study Area as follows:

- Using hollow stem auger drilling technology to advance the well boreholes.
- Sampling soil cores every five vertical feet and continuously core sampling the expected screen interval.
- Installing PVC well screens based on the stratigraphy of the Zones.
- Developing and then sampling the wells using a passive bag diffusion sampler.
- Surveying the wells by a State-licensed surveyor.

The Addendum proposes the following activities;

- Analyzing the samples for volatiles organic compounds (VOCs) using EPA Method 8260B.
- Sampling the new wells semi-annually and then evaluating the need for continued semi-annual sampling based on groundwater-VOC data from the new wells.

Regional Water Board Response

The Workplan and Addendum are acceptable. I hereby approve them.

You are required to submit a report documenting implementation of the Workplan by **July 31, 2014** that recommends further evaluation as needed.

This requirement for a technical report is made pursuant to Water Code section 13267, which allows the Regional Water Board to require technical or monitoring program reports from any person who has discharged, discharges, proposes to discharge, or is suspected of discharging waste that could affect water quality. The attachment provides additional information about section 13267 requirements. Any extension in the above deadline must be confirmed in writing by Regional Water Board staff.

You are required to submit all documents in electronic format to the State Water Resources Control Board's GeoTracker database and in hard copy format to this office. Guidance for electronic information submittal is available at

http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal.

If you have any questions, please contact Roger Papler of my staff at (510) 622-2435 [e-mail rpapler@waterboards.ca.gov].

Sincerely,

A handwritten signature in dark ink, appearing to read "Stephen Hill", with the word "for" written in smaller script below it.

Digitally signed by Stephen Hill
Date: 2014.03.05 08:31:43 -08'00'

Bruce H. Wolfe
Executive Officer

Attachment: 13267 Fact Sheet
cc w/Attachment: Mailing List

MAILING LIST

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San Francisco Bay Regional Water Quality Control Board

Fact Sheet – Requirements for Submitting Technical Reports Under Section 13267 of the California Water Code

What does it mean when the Regional Water Board requires a technical report?

Section 13267¹ of the California Water Code provides that “...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged or discharging, or who proposes to discharge waste...that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires.”

This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?

The requirement for a technical report is a tool the Regional Water Board uses to investigate water quality issues or problems. The information provided can be used by the Regional Water Board to clarify whether a given party has responsibility.

Are there limits to what the Regional Water Board can ask for?

Yes. The information required must relate to an actual or suspected or proposed discharge of waste (including discharges of waste where the initial discharge occurred many years ago), and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The Regional Water Board is required to explain the reasons for its request.

What if I can provide the information, but not by the date specified?

A time extension may be given for good cause. Your request should be promptly submitted in writing, giving reasons.

Are there penalties if I don't comply?

Depending on the situation, the Regional Water Board can impose a fine of up to \$5,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information or fails to comply with a requirement to submit a technical report may be found guilty of a misdemeanor. For some reports, submission of false information may be a felony.

Do I have to use a consultant or attorney to comply?

There is no legal requirement for this, but as a practical matter, in most cases the specialized nature of the information required makes use of a consultant and/or attorney advisable.

What if I disagree with the 13267 requirements and the Regional Water Board staff will not change the requirement and/or date to comply?

You may ask that the Regional Water Board reconsider the requirement, and/or submit a petition to the State Water Resources Control Board. See California Water Code sections 13320 and 13321 for details. A request for reconsideration to the Regional Water Board does not affect the 30-day deadline within which to file a petition to the State Water Resources Control Board.

If I have more questions, whom do I ask?

Requirements for technical reports include the name, telephone number, and email address of the Regional Water Board staff contact.

Revised January 2014

¹ All code sections referenced herein can be found by going to www.leginfo.ca.gov.